NO. 48046-8-II

COURT OF APPEALS OF THE STATE OF WASHINGTON,

DIVISION II

STATE OF WASHINGTON,

Respondent,

vs.

WILLIAM R. STEWART, III,

Appellant.

BRIEF OF APPELLANT

John A. Hays, No. 16654
Attorney for Appellant

1402 Broadway
Suite 103
Longview, WA 98632
(360) 423-3084

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

Federal Cases

State Cases

Constitutional Provisions

Statutes and Court Rules

ASSIGNMENT OF ERROR

Assignment of Error

1. The defendant is entitled to withdraw his guilty plea because the state failed to comply with the plea bargain it made with the defendant.

2. The trial court erred when it imposed a crime related community custody condition unrelated to the offense the defendant committed.

3. The trial court violated RCW 9.94A.701(9) when it imposed a sentence that exceeded the statutory maximum for the offense the defendant committed.

Issues Pertaining to Assignment of Error

1. Is a defendant entitled to withdraw a guilty plea if the state fails to comply with the plea bargain it made with the defendant in regards to what it would or would not request for community custody conditions?

2. Does a trial court err if it imposes a crime related community custody condition unrelated to the offense the defendant committed?

3. Does a trial court violate RCW 9.94A.701(9) if it imposes a sentence of prison and community custody the sum of which exceed the statutory maximum for the offense the defendant committed?

STATEMENT OF THE CASE

By information filed on April 17, 2014, the Clark County Prosecutor charged the defendant William R. Stewart, III, with one count of second degree rape. CP 1-2. The probable cause statement given in support of these charges alleged as follows:

> The undersigned law enforcement officer, Detective Darren McShea #1362, declares there is probable cause for the person listed on this affidavit as the defendant, for the following crime: Rape in the Second Degree (RCW 9A.44.050) in Clark County, Washington, based on the following circumstances.
>
> On 4/17/13 Vancouver Police were summoned to the PeaceHealth Southwest Medical Center regarding a sexual assault that occurred at Motel 6 (221 NE Chaklov Drive, Vancouver, Clark County, Washington). Victim E.L.H. (DOB 7/01/1986) was contacted by police and reported that she met a male named "Will" on the C-Tran bus on 4/16/13 in the afternoon hours. E.L.H. took the bus to the area of the Motel 6 and got off. Will followed. Once off the bus, E.L.H. called her boyfriend Jeffrey Miller. Miller responded and paid for her to stay the night in a room at the Motel 6. The next thing E.L.H. remembered was that Miller was gone and Will was in the room with her. E.L.H. stated that Will somehow got on top of her and force her to have anal and vaginal intercourse to include oral sex. E.L.H. said at one point Will held her neck with one hand and forced her to do what he wanted. E.L.H. reported she did not consent to any of the sexual acts Will forced on her.
>
> E.L.H. had a medical examination at the hospital related to the sexual assault. The examination revealed E.L.H.'s injuries included swollen eyes, redness to the neck, and injuries to the vagina and anus consistent with forced sexual intercourse.
>
> The suspect, William R. Stewart (DOB 8/27/1972), was identified on 10/28/13 when Miller saw him at 1601 E. Fourth Plain (Veteran Affairs campus) in Vancouver. Upon seeing Steward, Miller identified him as the "Will" that had been with E.L.H. on 4/17/13.

Vancouver Police were notified and documented the incident.

On 10/20/13 Stewart was interviewed. He initially denied any sexual activity with E.L.H. He then admitted they had sex. Stewart clarified "sex" meant his penis in her vagina. Stewart said E.L.H. was intoxicated. He stated "she can't give clear consent cause under, well at least under the basic law because she was intoxicated and, you know, I feel bad about it." He repeated that he didn't feel good about it. He said it wasn't his intention (to have sex) and his intention was just to help E.L.H. out and he was getting a free place to stay for the night. Stewart was asked if he thought things went further than he expected. He said yes. Stewart denied having anal intercourse with E.L.H. Stewart was asked to clarify what he meant by consent. He said E.L.H. did say yes to the vaginal and oral sex and was coming on to him prior to getting in the motel room by holding his hand.

CP 26-27.

Over 14 months after the state filed the information in this case the defendant accepted a plea offer by the state whereby the defendant entered an Alford plea to an amended charge of indecent liberties without forcible compulsion upon the following written recommendations by the state, which were attached to the Statement of Defendant on Plea of Guilty:

RECOMMENDATION AS TO CONFINEMENT

116 Months in Total Confinement

TERMS APPLICABLE TO ALL RECOMMENDATIONS

This offer includes credit for time served in custody solely on this case, up to the date of sentencing. It also includes standard conditions of supervision including report to DOC. This offer is exclusive to the above reference cause number(s), unless otherwise noted.

All recommendations include court costs of $200.00; crime

victim's compensations fee of $500; fine of $500; biological collection fee of $100.00; appointed attorney's fees, and *any* related defense costs, such as investigator fees, expert witness fees, transcription fees, etc. which have been or will be paid by order of the court. To accept this offer, defendant agrees to pay restitution (in any amount presently understood to be TO BE SET) which could be established or modified by the court at a later date based on additional information. The defendant agrees to pay restitution to victims of uncharged crimes contained in the discovery, and/or dismissed counts. The Defendant is free to argue for reduction in financial obligations, other than restitution or those required by law, on the basis of indigency.

Defendant shall comply with directions of the DOC and the Clerk of the Court regarding reporting and paying any financial obligations and comply with financial monitoring as required by statute.

SUPERVISION

☒ Community Custody for 36 months.

MANDATORY SENTENCE REQUIREMENTS

☒ No possession/use/ownership of firearms/surrender concealed pistol license
☒ Provide biological sample for DNA Identification
☒ HIV testing
☒ Register as Sex/Kidnapping Offender per RCW 9A.44.130 and RCW 10.01.200

OTHER CONDITIONS OF SUPERVISION AND AGREEMENT
(This list is non-exclusive - the State is free to recommend other usual conditions)

☒ The defendant shall perform affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections (DOC) and shall comply with the instructions, rules and regulations of DOC for the conduct of the defendant during the period of community supervision/custody. Defendant shall receive permission from DOC prior to moving.
☒ No violations of federal, state, or local criminal laws.

- ☒ No contact with Victim(s) for 10 years.
- ☒ Notify community corrections officer within 48 hours of any arrest or citation.

IF the defendant fails to appear for sentencing, commits any additional crimes between pleading guilty and sentencing, or otherwise breaches this agreement or if Defendant later moves to withdraw this plea or collaterally attack the conviction under this cause number, the defendant understands and agrees that the State will be free to make any recommendations(s) it deems appropriate or to refile any dismissed or withheld counts, enhancements, or aggravating factors but that the defendant may not withdraw his plea of guilty in the event the State elects any of these remedies.

In the event the State, defendant or the court requests a DOSA screening, the State makes no representation as to the eligibility of the defendant for a sentence under the DOSA provisions. If found not to be eligible, defendant understands and agrees that he is still bound by his plea of guilty.

This offer form must be attached to the Statement of Defendant on Plea of Guilty.

CP 18-19 (Italics, bold and underlining in original).

In his statement of defendant on plea of guilty the defendant made the following factual statement in paragraph 11:

> I am pleading guilty to the charged crime because I want to avoid the risk of being convicted of the greater crime of Rape in the Second Degree and the increased sentence that it would result in. I agree that the State could produce sufficient evidence if believed by a jury or judge that could result in a finding of guilty of the greater of offense [XX] I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

CP 14-15.

Following acceptance of the plea the court ordered a mandatory pre-sentence investigation report (PSI), which the Department of Corrections (DOC) eventually completed and filed with the court. CP 25-38. At the end of the PSI the Department of Corrections recommended a standard range sentence of 116 months, which was at the top of the range, as was well as 36 months community custody with the following "crime related conditions":

CRIME RELATED CONDITIONS:

- No contact with minors
- Complete a certified sex offender treatment program
- No victim contact
- Do not enter into any relationship with a female without first disclosing to the interested party, the CCO and/or the Sex Offender Treatment provider
- Submit to polygraph examinations at the direction of the Community Corrections Officer
- Submit to urine and/or breath screening at the direction of the Community Corrections Officer
- No unauthorized use of electronic media
- No use or possession of sexually explicit material as defined in RCW 9.68.130(2)
- Complete a domestic violence treatment evaluation and comply with provider recommendations
- Complete a mental health evaluation and comply with provider recommendations

CP 38.

At the sentencing hearing, the defendant objected to a number of these recommended conditions as unrelated to the crime the defendant committed. RP 9/11/15 30-31. Specifically, the defendant objected to the conditions that he (1) have no contact with minors; (2) that he not use or possess sexually

explicit material as defined in RCW 9.68.130(2), (3) that he not enter into any relationship with a female without first disclosing to the interested party, the CCO and/or the Sex Offender Treatment provider; (4) that he submit to urine and/or breath screening at the direction of the Community Corrections Officer; and (5) that he have no unauthorized use of electronic media. RP 9/11/15 30-31.

Following argument, the court imposed 116 months in prison plus 36 months community custody with a number of conditions, including:

- No use or possession of sexually explicit material as defined in RCW 9.68.130(2)

CP 59.

Following imposition of the judgement and sentence the defendant filed timely notice of appeal. CP 61.

ARGUMENT

I. THE DEFENDANT IS ENTITLED TO WITHDRAW HIS GUILTY PLEA BECAUSE THE STATE FAILED TO COMPLY WITH THE PLEA BARGAIN IT MADE WITH THE DEFENDANT.

Under both Washington Constitution, Article 1, § 3, and United States Constitution, Fourteenth Amendment, due process in a criminal case requires that the state adhere to the terms of the plea agreements it enters with a defendant. *Santobello v. New York*, 404 U.S. 257, 92 S.Ct. 495, 30 L.Ed.2d 427 (1971); *State v. Sledge*, 133 Wn.2d 828, 947 P.2d 1199 (1997) (the state may not present an argument that under cuts a plea agreement); *State v. Miller*, 110 Wn.2d 528, 532, 756 P.2d 122 (1988) (since the breach of plea agreement impinges upon a defendant's fundamental due process rights, the terms of a plea agreement may override an otherwise contradictory statute). In other words, once the trial court accepts a defendant's guilty plea, the plea bargain is binding upon the state much in the same fashion as a contract. *State v. Schaupp*, 111 Wn.2d 34, 757 P.2d 970 (1988).

If the state breaches a plea agreement, the defendant usually may elect one of two possible remedies: (1) specific enforcement, or (2) withdrawal of the guilty plea. *In re James*, 96 Wn.2d 847, 640 P.2d 18 (1982). The only exception would be for cases in which the state could prove that the defendant induced the state to enter the agreement through prejudice, fraud, or deceit. *State v. Lake*, 107 Wn.App. 227, 27 P.3d 232 (2001).

For example, in *State v. Shineman*, 94 Wn.App. 57, 971 P.2d 94 (1999), the defendant pled guilty to fourth degree assault, upon the agreement of the state to do the following after one year if the defendant met certain conditions: (1) allow the defendant to withdraw his plea, (2) move to dismiss, and (3) expunge the defendant's record of the conviction. Following one year, the defendant moved to withdraw his guilty plea, to dismiss the charge, and to expunge his record. The state agreed to the withdrawal of the guilty plea and to the dismissal, conceding that the defendant had met the conditions of the plea bargain.

However, the state argued that the court did not have authority to order the state to have the defendant's record expunged. The trail court agreed and denied the defendant's request for expungement. The defendant then appealed, requesting specific performance of the state's agreement to expunge his record. In addressing the arguments presented, the Court of Appeals first stated the following concerning plea agreements:

> When a criminal defendant's guilty plea rests in any significant degree on a promise or agreement of the prosecutor, so that it can be said to be part of the inducement or consideration, such promise must be fulfilled. Due process requires that the prosecutor adhere to the terms of the plea bargain agreement reached with the criminal defendant.

State v. Shineman, 971 P.2d at 96 (citations omitted).

Noting that the state conceded that the defendant had met the

requirements of the plea agreement, the court stated the following concerning the remedies available to the defendant:

> Where the prosecutor attempts to avoid the plea agreement, the defendant is permitted to choose his remedy: withdrawal of his plea or specific enforcement of the plea agreement. The State must show prejudice, or fraud or deceit on the part of the defendant, before the court will disallow the defendant's choice of remedy for the State's breach of a plea agreement. Here, the State has shown no such prejudice, fraud, or deceit. Therefore, Shineman is entitled to choose between specific enforcement of the plea agreement, i.e., expungement of the charge from his record, or withdrawal of his guilty plea.

State v. Shineman, 971 P.2d at 97 (citations omitted); *cf State v. Barber*, 170 Wn.2d 854, 248 P.3d 494 (2011) (defendant not entitled to specific performance of a plea agreement term that is contrary to law, overruling *State v. Miller*, 110 Wn.2d, 756 P.2d 122 (1988)).

In the case at bar the state charged the defendant with second degree rape and then offered to reduce the charge to indecent liberties without forcible compulsion with the state recommending the following terms:

RECOMMENDATION AS TO CONFINEMENT

116 Months in Total Confinement

TERMS APPLICABLE TO ALL RECOMMENDATIONS

> This offer includes credit for time served in custody solely on this case, up to the date of sentencing. It also includes standard conditions of supervision including report to DOC. This offer is exclusive to the above reference cause number(s), unless otherwise noted.

All recommendations include court costs of $200.00; crime victim's compensations fee of $500; fine of $500; biological collection fee of $100.00; appointed attorney's fees, and *any* related defense costs, such as investigator fees, expert witness fees, transcription fees, etc. which have been or will be paid by order of the court. To accept this offer, defendant agrees to pay restitution (in any amount presently understood to be TO BE SET) which could be established or modified by the court at a later date based on additional information. The defendant agrees to pay restitution to victims of uncharged crimes contained in the discovery, and/or dismissed counts. The Defendant is free to argue for reduction in financial obligations, other than restitution or those required by law, on the basis of indigency.

Defendant shall comply with directions of the DOC and the Clerk of the Court regarding reporting and paying any financial obligations and comply with financial monitoring as required by statute.

SUPERVISION

☒ Community Custody for 36 months.

MANDATORY SENTENCE REQUIREMENTS

☒ No possession/use/ownership of firearms/surrender concealed pistol license
☒ Provide biological sample for DNA Identification
☒ HIV testing
☒ Register as Sex/Kidnapping Offender per RCW 9A.44.130 and RCW 10.01.200

OTHER CONDITIONS OF SUPERVISION AND AGREEMENT
(This list is non-exclusive - the State is free to recommend other usual conditions)

☒ The defendant shall perform affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections (DOC) and shall comply with the instructions, rules and regulations of DOC for the conduct of the defendant during the period of community supervision/custody. Defendant shall receive permission from DOC prior to moving.

- ☒ No violation s of federal, state, or local criminal laws.
- ☒ No contact with Victim(s) for 10 years.
- ☒ Notify community corrections officer within 48 hours of any arrest or citation.

If the defendant fails to appear for sentencing, commits any additional crimes between pleading guilty and sentencing, or otherwise breaches this agreement or if Defendant later moves to withdraw this plea or collaterally attack the conviction under this case number, the defendant understands and agrees that the State will be free to make any recommendations(s) it deems appropriate or to re-file any dismissed or withheld counts, enhancements, or aggravating factors but that the defendant may not withdraw his plea of guilty in the event the State elects any of these remedies.

In the event the State, defendant or the court requests a DOSA screening, the State makes no representation as to the eligibility of the defendant for a sentence under the DOSA provisions. If found not to be eligible, defendant understands and agrees thtat he is still bound by his plea of guilty.

This offer form must be attached to the Statement of Defendant on Plea of Guilty.

CP 18-19 (Italics, bold and underlining in original).

Under this plea offer the state specifically limited itself to recommending certain community custody conditions while implicitly agreeing to refrain from recommending other community custody conditions. In spite of this agreement, the state failed to inform the court that it was not recommending the following community custody condition that DOC requested in the PSI:

- No use or possession of sexually explicit material as defined in RCW 9.68.130(2)

CP 59.

Rather, when the court asked the state about this condition that DOC recommended, the state told the court that it had no position on the issue. The prosecutor stated:

> MR. VAUGHN: I don't have any comments. I'd defer to the Court's discretion. Obviously, the Court can impose crime-related prohibitions and the State will just confer to the Court's discretion on that.

RP 7/24/15 31.

This statement is not consistent with the plea bargain with the defendant in which the state implicitly agreed to only recommend certain community custody conditions. Thus, by answering the court's question in this manner the state violated the plea bargain the defendant accepted by pleading guilty to the amended charges. As a result, this court should grant the defendant the alternative of withdrawing his guilty plea.

II. THE TRIAL COURT ERRED WHEN IT IMPOSED CRIME RELATED COMMUNITY CUSTODY CONDITIONS THAT DO NOT RELATE TO THE OFFENSE THE DEFENDANT COMMITTED.

In Washington the establishment of penalties for crimes is solely a legislative function. *See State v. Thorne*, 129 Wn.2d 736, 767, 921 P.2d 514 (1996). As such, the power of the legislature to set the type, amount and terms of criminal punishment is plenary and only confined by constitutional

constraints. *Id.* Thus, a trial court may only impose those terms and conditions of punishment that the legislature authorizes. *State v. Mulcare*, 189 Wash. 625, 628, 66 P.2d 360 (1937). In the case at bar, the defendant argues that the trial court exceeded it's statutory authority when it imposed community custody conditions not authorized in the sentencing reform act. The following sets out this argument.

In the case of *In re Jones*, 118 Wn.App. 199, 76 P.3d 258 (2003), the court of appeals addressed the issue of what conditions a trial court may impose as part of community custody. In this case the defendant pled guilty to a number of felonies including first degree burglary. The court sentenced him to concurrent prison time and community custody which included the following conditions among others: (1) that the defendant violate no laws, (2) that the defendant not consume alcohol, (3) that the defendant complete alcohol treatment, and (4) that the defendant participate in mental health treatment. At the time of sentencing the court had no evidence before it that alcohol or mental health problems contributed to the defendant's crimes. The defendant appealed the sentence arguing that the trial court did not have authority to impose these conditions.

In addressing these claims the court of appeals first looked to the applicable statutes concerning conditions of community custody and determined that certain statutes in RCW 9.94A specifically allowed the court

to order that a defendant not violate the law and not consume alcohol. The court then reviewed the remaining two conditions and determined that the legislature only allowed imposition of alcohol or mental health treatment if it found that alcohol or mental health issues were "reasonably related" to the defendant's commission of the crimes to which the court was sentencing him. Finding no such evidence in the record the court struck these two conditions.

In the case at bar the jury found the defendant guilty of one count of indecent liberties without forcible compulsion under a fact pattern in which the complaining witness alleged that she was in a motel room with the defendant and that he touched her in a sexual manner without her consent. She did not claim, neither was there any evidence presented, that the defendant used sexually explicit material or pornography during the commission of the crime or in conjunction with the offense in any manner. In spite of this lack of any evidence the court imposed the following community custody condition:

- No use or possession of sexually explicit material as defined in RCW 9.68.130(2)

CP 59.

In the case at bar the trial court had no evidence before it that the defendant had possessed or used sexually explicit materials prior to, during

or after the commission of his offense. Thus, in the same manner that the trial court in *Jones*, *supra*, erred when it imposed community custody conditions unrelated to the offense the defendant committed, so the trial court in this case erred when it imposed a community custody condition that prohibited possession of sexually explicit materials because there was no evidence that it was related to the offense the defendant committed. As a result this court should vacate this condition.

III. THE TRIAL COURT VIOLATED RCW 9.94A.701(9) WHEN IT IMPOSED A SENTENCE THAT EXCEEDED THE STATUTORY MAXIMUM FOR THE OFFENSE THE DEFENDANT COMMITTED.

Under RCW 9.94A.701(9), the trial court may not impose a determinative sentence of incarceration and a term of community custody if the combination of the two exceeds the statutory maximum for the given offense. Rather, the court must reduce the term of community custody so as to avoid exceeding the statutory maximum. This provisions states:

> (9) The term of community custody specified by this section shall be reduced by the court whenever an offender's standard range term of confinement in combination with the term of community custody exceeds the statutory maximum for the crime as provided in RCW 9A.20.021.

RCW 9.94A.701(9).

In the past, a number of courts have attempted to avoid the impact of

this provision in cases in which the imposition of community custody in light of the incarceration time imposed exceeded the statutory maximum by noting on the judgment and sentence that "in no circumstances may the defendant's time in custody when added to the community custody exceed the statutory maximum for the offense." However, in *State v. State v. Boyd,* 174 Wn.2d 470, 275 P.3d 321 (2012), the Washington Supreme Court rejected this approach and held that under RCW 9.94A.701(9), the term of incarceration added to the community custody time stated in the judgement and sentence could not exceed the statutory maximum for the particular offense, regardless of the fact that a defendant's accrual of good time might well put the total of incarceration and community custody under the particular statutory maximum.

In the case at bar, the jury convicted the defendant of indecent liberties without forcible compulsion under RCW 9A.44.100(1)(b). Subsection (2) of this statute states:

> (2)(a) Except as provided in (b) of this subsection, indecent liberties is a class B felony.
>
> (b) Indecent liberties by forcible compulsion is a class A felony.

RCW 9A.44.100(2).

Since the charge in this case was indecent liberties without forcible compulsion, the offense is a class B felony. Under RCW 9A.36.021(1)(b),

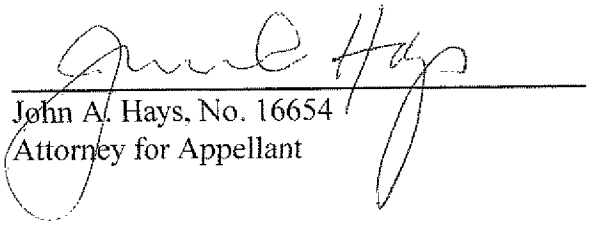
the maximum penalty for a class B felony is 10 years in prison plus a $20,000.00 fine. In spite of this limitation, the court in this case imposed 116 months plus 36 months of community custody. Since this exceeds the statutory maximum of 120 months, the trial court in this case violated RCW 9.94A.701(9). As a result, this court should remand this case to the trial court with instructions to strike all but 4 months of community custody.

CONCLUSION

The state's failure to abide by the plea bargain in this case entitles the defendant to withdraw his guilty plea. In the alternative, this court should strike the community custody condition unrelated to the offense committed and remand to the trial court with instructions to reduce the defendant's community custody time to 4 months.

DATED this 1st day of February, 2016.

Respectfully submitted,



John A. Hays, No. 16654
Attorney for Appellant

APPENDIX

WASHINGTON CONSTITUTION
ARTICLE 1, § 3

No person shall be deprived of life, liberty, or property, without due process of law.

UNITED STATES CONSTITUTION,
FOURTEENTH AMENDMENT

All persons born or naturalized in the United State, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

. . .

RCW 9.94A.701
Community custody – Offenders Sentenced to the Custody of the Department

(1) If an offender is sentenced to the custody of the department for one of the following crimes, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody for three years:

(a) A sex offense not sentenced under RCW 9.94A.507; or

(b) A serious violent offense.

(2) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for eighteen months when the court sentences the person to the custody of the department for a violent offense that is not considered a serious violent offense.

(3) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for one year when the court sentences the person to the custody of the department for:

(a) Any crime against persons under RCW 9.94A.411(2);

(b) An offense involving the unlawful possession of a firearm under RCW 9.41.040, where the offender is a criminal street gang member or associate;

(c) A felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000; or

(d) A felony violation of RCW 9A.44.132(1) (failure to register) that is the offender's first violation for a felony failure to register.

(4) If an offender is sentenced under the drug offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.660.

(5) If an offender is sentenced under the special sex offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.670.

(6) If an offender is sentenced to a work ethic camp, the court shall impose community custody as provided in RCW 9.94A.690.

(7) If an offender is sentenced under the parenting sentencing alternative, the court shall impose a term of community custody as provided in RCW 9.94A.655.

(8) If a sex offender is sentenced as a nonpersistent offender pursuant to RCW 9.94A.507, the court shall impose community custody as provided in that section.

(9) The term of community custody specified by this section shall be reduced by the court whenever an offender's standard range term of confinement in combination with the term of community custody exceeds the statutory maximum for the crime as provided in RCW 9A.20.021.

COURT OF APPEALS OF WASHINGTON, DIVISION II

STATE OF WASHINGTON, **Respondent,** **vs.** **WILLIAM R. STEWART, III,** **Appellant.**	**NO. 48046-8-II** **AFFIRMATION OF SERVICE**

The under signed states the following under penalty of perjury under the laws of Washington State. On the date below, I personally e-filed and/or placed in the United States Mail the Brief of Appellant with this Affirmation of Service Attached with postage paid to the indicated parties:

1. Mr. Tony Golik
   Clark County Prosecuting Attorney
   1013 Franklin Street
   Vancouver, WA 98666-5000
   prosecutor@clark.wa.gov

2. William R. Stewart, III, No.749204
   Monroe Corrections Center
   P.O. Box 777
   Monroe, WA 98272

Dated this 1st day of February, 2016, at Longview, WA.

Diane C. Hays

HAYS LAW OFFICE

February 01, 2016 - 4:19 PM

Transmittal Letter

Document Uploaded: 4-480468-Appellant's Brief.pdf

Case Name: State v. William R. Stewart, III
Court of Appeals Case Number: 48046-8

Is this a Personal Restraint Petition? Yes ■ No

The document being Filed is:

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: ____

Answer/Reply to Motion: ____

■ Brief: __Appellant's__

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: ____
Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

Sender Name: Diane C Hays - Email: jahayslaw@comcast.net

A copy of this document has been emailed to the following addresses:

prosecutor@clark.wa.gov